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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,981	10/23/2003	Ronald J. Tabar	55343US007	2467
32692 7590 07/18/2007 3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			EXAMINER VARGOT, MATHIEU D	
			ART UNIT 1732	PAPER NUMBER
			NOTIFICATION DATE 07/18/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

Office Action Summary

Application No.

10/691,981

Applicant(s)

TABAR ET AL.

Examiner

Mathieu D. Vargot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-17 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-17 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/2/07</u> . | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-17 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrill et al –948 essentially for reasons of record noting the following. A careful reading of Example 5 of the applied reference indicates that the core layer or the outer layers can be used as the facilitating material—see column 27, lines 17-22. If the core is the facilitating material, then the two outer layers are made up of the continuous and dispersed materials—see column 27, lines 24-26. Hence, the applied reference envisions extruding and casting the same first film with a first surface layer, a core layer and a second surface layer, the first and second surface layers being the instant disperse phase within a continuous phase. Essentially, what is lacking is a teaching of separating the first surface layer from the core. However, the applied reference also teaches (col. 27, line 51 through col. 28, line 5) that another embodiment would be to extrude a five layer film, wherein two outer, **sacrificial** layers are used—ie, these two outer layers are **stripped from the film** and, indeed, **from the layers comprising the disperse and continuous phases**—to form a three layer film. If it is known to strip outer facilitating layers from a multilayered film wherein the layers directly in contact with the stripped facilitating layers are in fact layers made up of a disperse and continuous phase, then surely it would have been obvious to strip the outer layers of the three layer embodiment described in column 27, lines 17-26 from the core—ie,

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facilitating—layer. In disclosing stripping the sacrificial layers, it is respectfully submitted that one of ordinary skill would have been able to modify the method of Merrill et al -948 to strip the core layer, which is disclosed as not affecting the polarization of the article. Clearly, the core layer is not required to perform any optical function, and is in fact a facilitating material in much the same manner as the outer layers in the five layer embodiment. If these can be stripped, then surely the core layer can be stripped in the three layer embodiment. The core being stripped, it would then have been obvious to have combined the two surface layers of the film to form the desired polarizer. This is essentially what applicant has done, and it is maintained that such is obvious over the applied reference. Casting onto a chill roll is also taught in Merrill et al -948 –see Example 1. The exact difference in refractive indices between phases of the first surface layer are submitted to have been readily determined through routine experimentation and obvious dependent on the exact polarization effect desired. So too would have been the gain of the optical film formed from the surface layers. It is respectfully submitted that dividing the first surface layer as set forth in instant claim 6 and then incorporating the divided layer as set forth in claim 6 and newly added claim 29 would additionally been obvious over Merrill et al -948. As pointed out in the previous rejection, the applied reference (see col. 13, lines 39-67) envisions laminating the film made with other films and this is nothing but conventional in the optical art to form a film with the desired optical properties.

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

In view of the amendment, Weber et al has been dropped from the rejection. However, it is maintained that then instant claims are obvious over Merrill et al –948. It is believed that most of the arguments set forth in the July 20, 2006 response have been addressed supra, in paragraph 1. Merrill et al –948 **does indeed teach** that a continuous/disperse phase layer would be separated from a layer of facilitating material, just not the instant **core** facilitating layer. For reasons already discussed, this would have been an obvious modification to the process of the applied reference. Merrill et al –948 teaches that the core layer in the three layer embodiment does not affect the film's polarizing properties, although the reference suggests it may be used to provide additional "optical properties". However, while the core layer may be used for strength and handling, it is the polarizing portions of the film—the outer surface layers—that are important from an optical standpoint. One of ordinary skill in the art would realize that the core facilitating layer would also be sacrificed if desired, since the outer facilitating layers are sacrificed in another embodiment. As already pointed out, Merrill et al –048 does indeed delaminate a continuous/disperse phase layer from a facilitating layer in the five layer embodiment.

3.Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

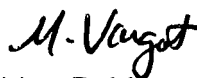
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
July 8, 2007


Mathieu D. Vargot
Primary Examiner
Art Unit 1732

7/8/07